

FILED

JAN 08 2007

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

JEFF DEVOLL  
Plaintiff,

VS.

FLEET BANK  
Defendant.

CIVIL NO. SA06CA0870 XR

**DEFENDANT FIA CARD SERVICES, N.A.'S ORIGINAL  
ANSWER AND AFFIRMATIVE DEFENSES**

Defendant, FIA Card Services, N.A. f/k/a Fleet Bank ("FIA"), FIA Card Services, N.A. is the proper name of Defendant, files this, its Original Answer and Affirmative Defenses, as follows:

**A. ADMISSIONS AND DENIALS**

1. FIA is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of Plaintiff's Original Complaint.
2. FIA denies the allegations set forth in Paragraph 2 of Plaintiff's Original Complaint.
3. FIA denies the allegations set forth in Paragraph 3 of Plaintiff's Original Complaint.
4. FIA denies the allegations set forth in Paragraph 4 of Plaintiff's Original Complaint.
5. FIA denies the allegations set forth in Paragraph 5 of Plaintiff's Original Complaint.
6. FIA denies the allegations set forth in Paragraph 6 of Plaintiff's Original Complaint.

7. FIA denies the allegations set forth in Paragraph 7 of Plaintiff's Original Complaint.

8. FIA denies the allegations set forth in Paragraph 8 of Plaintiff's Original Complaint.

**B. AFFIRMATIVE DEFENSES**

9. FIA asserts it is not liable because of laches, failure to mitigate damages, Plaintiff has brought this cause of action outside the statute of limitations, and any other matter constituting an avoidance or affirmative defense in accordance with Federal Rule of Civil Procedure 8(c).

10. For these reasons, Defendant, FIA Card Services, N.A. f/k/a Fleet Bank, requests that Plaintiff, Jeff Devoll take nothing by way of Plaintiff's Original Complaint asserted against FIA Card Services, N.A. f/k/a Fleet Bank and requests any other and further relief in law or in equity to which FIA Card Services, N.A. f/k/a Fleet Bank may be entitled.

Respectfully submitted,

By:

  
Eric Lipper  
State Bar No. 12399000  
Federal Bar No. 11442  
700 Louisiana, Suite 2550  
Houston, Texas 77002  
Telephone: (713) 223-5181  
Facsimile: (713) 223-9319

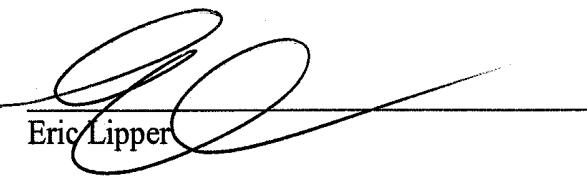
**OF COUNSEL:**  
**HIRSCH & WESTHEIMER, P.C.**

**ATTORNEY-IN-CHARGE FOR DEFENDANT,  
FIA CARD SERVICES, N.A. F/K/A FLEET  
BANK**

**CERTIFICATE OF SERVICE**

On this 5<sup>th</sup> day of January, 2007, I hereby certify that a true and correct copy of the foregoing was sent to the following counsel and/or parties of record as indicated below:

Jeff Devoll, *Pro Se*  
706 Cobble  
San Antonio, Texas 78216  
Telephone No. (210) 344-4457  
**CM,RRR No. 7005-2570-0000-7258-9719**

  
Eric Lipper